



General Assembly

January Session, 2009

Raised Bill No. 964

LCO No. 3591

03591_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING THE CONNECTICUT ANTITRUST ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 35-42 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2009*):

3 (a) Whenever the Attorney General, his or her deputy [,] or any
4 assistant attorney general designated by the Attorney General, has
5 reason to believe that any person has violated any of the provisions of
6 this chapter, he or she may, prior to instituting any action or
7 proceeding against such person, issue in writing and cause to be
8 served upon any person, by subpoena duces tecum, a demand
9 requiring such person to submit to him or her documentary material
10 relevant to the scope of the alleged violation. For the purposes of this
11 section, "documentary material" includes, but is not limited to, any
12 information in a written, recorded or electronic form.

13 (b) Such demand shall (1) state the nature of the alleged violation,
14 [and] (2) describe the class or classes of documentary material to be
15 reproduced thereunder with such definiteness and certainty as to be
16 accurately identified, and (3) prescribe a date which would allow a

17 reasonable time to assemble such [documents] documentary material
18 for compliance.

19 (c) (1) All [documents] documentary material furnished to the
20 Attorney General, his or her deputy [,] or any assistant attorney
21 general designated by the Attorney General, pursuant to a demand
22 issued under subsection (a) of this section, shall be held in the custody
23 of the Attorney General, or [his] the Attorney General's designee, and
24 shall not be available to the public. [, and] Such documentary material
25 shall be returned to the person [at] furnishing such documentary
26 material upon the termination of the [attorney general's] Attorney
27 General's investigation or final determination of any action or
28 proceeding commenced thereunder.

29 (2) All documentary material or other information furnished
30 voluntarily to the Attorney General, his or her deputy or any assistant
31 attorney general designated by the Attorney General, for suspected
32 violations of the provisions of this chapter, and the identity of the
33 person furnishing such documentary material or other information,
34 shall be held in the custody of the Attorney General, or the Attorney
35 General's designee, and shall not be available to the public. Such
36 documentary material or other information shall be returned to the
37 person furnishing such documentary material or other information
38 upon the termination of the Attorney General's investigation or final
39 determination of any action or proceeding commenced thereunder.

40 (d) No such demand shall require the submission of any
41 documentary material, the contents of which would be privileged, or
42 precluded from disclosure if demanded in a grand jury investigation.

43 (e) The Attorney General, his or her deputy [,] or any assistant
44 attorney general designated by the Attorney General, may during the
45 course of an investigation of any violations of the provisions of this
46 chapter by any person (1) issue in writing and cause to be served upon
47 any person, by subpoena, a demand that such person appear before
48 him or her and give testimony as to any matters relevant to the scope

49 of the alleged violations. Such appearance shall be under oath and a
50 written transcript made of the same, a copy of which shall be furnished
51 to [said] such person appearing, and shall not be available for public
52 disclosure; and (2) issue written interrogatories prescribing a return
53 date which would allow a reasonable time to respond, which
54 responses shall be under oath and shall not be available for public
55 disclosure.

56 (f) In the event any person [shall fail] fails to comply with the
57 provisions of this section, (1) the Attorney General, his or her deputy
58 [,] or any assistant attorney general designated by the Attorney
59 General, may apply to the superior court for the judicial district of
60 Hartford for compliance, which court may, upon notice to such person,
61 issue an order requiring such compliance, which shall be served upon
62 such person; (2) the Attorney General, his or her deputy [,] or any
63 assistant attorney general designated by the Attorney General, may
64 also apply to the superior court for the judicial district of Hartford for
65 an order, which court may, after notice to such person and hearing
66 thereon, issue an order requiring the payment of civil penalties to the
67 state in an amount not to exceed [five hundred] two thousand dollars.

68 (g) The Attorney General shall cooperate with officials of the federal
69 government and the several states, including but not limited to the
70 sharing and disclosure of information and evidence obtained under
71 the purview of this chapter.

72 (h) Service of subpoenas ad testificandum, subpoenas duces tecum,
73 notices of deposition [,] and written interrogatories, as provided
74 [herein] in this section, may be made by: (1) Personal service or service
75 at the usual place of abode; or (2) [by] registered or certified mail,
76 return receipt requested, a duly executed copy thereof addressed to the
77 person to be served at [his] such person's principal place of business in
78 this state, or, if [said] such person has no principal place of business in
79 this state, [to his] at such person's principal office [,] or [to his] such
80 person's residence.

81 Sec. 2. Section 35-38 of the general statutes is repealed and the
82 following is substituted in lieu thereof (*Effective October 1, 2009*):

83 In any action instituted by the Attorney General, any individual
84 who has been held to have violated this chapter shall forfeit and pay to
85 the state a civil penalty of not more than [twenty-five] one hundred
86 thousand dollars. Any other person who has been held to have
87 violated any of the provisions of this chapter shall forfeit and pay to
88 the state a civil penalty of not more than [two hundred fifty thousand]
89 one million dollars.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2009</i>	35-42
Sec. 2	<i>October 1, 2009</i>	35-38

Statement of Purpose:

To provide the same confidentiality protections to antitrust documents voluntarily provided to the Attorney General as to documents provided in response to a subpoena and to increase the amount of the civil penalty that may be imposed on an individual or business entity that fails to comply with a subpoena for documentary material or that violates the Connecticut Antitrust Act.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]